THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 7693 of 2007

Dated: 16.4.2007

Between:

M.Balaiah.

.... PETITIONER

AND

The Depot Manager,
APSRTC, Atmakur (N) Depot,
Nellore District.

.....RESPONDENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 7693 of 2007

Order:

This writ petition is filed seeking a Mandamus declaring the action of the respondent in issuing the proceedings dated 25.10.1991, imposing major punishment of deferment of one year annual increment of the petitioner for a period of one year with cumulative effect as illegal and arbitrary.

The petitioner is employed as a Driver in APSRTC. On 18.1.1991, he was issued with a charge sheet alleging that he drove the bus in a rash and negligent manner on 22.12.1990 as a result of which the bus met with a major accident and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him, for which he submitted explanation denying the charge framed against him. The respondent, without conducting any regular departmental enquiry and without affording any opportunity, passed the impugned order imposing punishment of deferment of the annual increment for a period of one year with cumulative effect. Aggrieved by the same, the petitioner filed the present writ petition.

Learned counsel for the petitioner contends that stoppage of increments of an employee with cumulative effect is a major penalty, and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC

Employees' (CC&A) Regulations (for short 'the Regulations'). In support of his contention, learned counsel relied on the judgment of the Supreme Court in "***Kulwanth Singh Gill v. State of Punjab***[1]". Learned counsel for petitioner also relied on a judgment of this Court in W.P. No. 20609 of 1999 dated 7.12.2005, which is in a similar background of facts and circumstances.

On the other hand, learned Standing Counsel appearing on behalf of the respondent-Corporation submitted that the Depot Manager, after considering the entire material together with the explanation submitted by the petitioner, has passed the impugned order, hence, no interference is called for therewith.

Heard the learned counsel for both the parties and perused the material available on record.

It is an admitted fact that the respondent imposed punishment of withholding of annual increment for a period of one year with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The Apex Court in KULWANTH SINGH GILL'S CASE (cited supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment was imposed without conducting regular departmental enquiry violating the judgment of Apex Court, the impugned order cannot be sustained.

In the ordinary course of things, the impugned order needs to be set aside leaving it open to the respondent to pass fresh orders. But to avoid further litigation in the matter, I deem it appropriate to dispose of the writ petition with the following direction.

The impugned order dated 25.10.1991 passed by the respondent imposing the punishment of withholding of annual increment with cumulative effect, is modified to that of withholding of one increment without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 16.04.2007
msv

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1 1991 Supp (1) SCC 504